

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

JANET A. FILES,

Plaintiff,

v.

**CIVIL ACTION NO. 3:04CV69
(BROADWATER)**

**JO ANNE B. BARNHART,
Commissioner, Social Security
Administration,**

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge James E. Seibert, dated June 3, 2005. Neither party filed objections to the Report. The Court, after reviewing the above, is of the opinion that the Magistrate Judge's Report and Recommendation should be and is hereby **ORDERED** adopted.

The Court, therefore, **ORDERS** that the plaintiff's motion for summary judgment (**Docket # 4**) be **DENIED** in part for the reasons more specifically set forth in the Report and Recommendation. However, this matter is hereby **REMANDED** to the Administrative Law Judge for more findings regarding plaintiff's subjective complaints of pain, in accordance with the Magistrate Judge's findings as set forth in the Report and Recommendation. It is further **ORDERED** that this action be **DISMISSED WITH PREJUDICE** based on the reasons set forth in the Magistrate Judge's Report and Recommendation, and **STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

DATED this 25th day of August 2005.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE

